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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,779	06/06/2002	Tamar Giloh	01-055	5007
20306	7590	06/02/2004	EXAMINER	
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP			ANDERSON, CATHARINE L	
300 S. WACKER DRIVE			ART UNIT	
32ND FLOOR			PAPER NUMBER	
CHICAGO, IL 60606			3761	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/744,779		GILOH, TAMAR	
	<b>Examiner</b>		<b>Art Unit</b>	
	C. Lynne Anderson		3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-35, 37-51 and 53-56 is/are rejected.
- 7) ☒ Claim(s) 36 and 52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/12/01, 7/9/01</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS - 8/2/02, 7/17/03</u> .           |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-28, 30, 33, 35, 39-46, 48, 51, 55, and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Igaue et al. (RE 35,687).

With respect to claims 23, 35, 41, and 51, Igaue discloses a protective undergarment dressing 1, as shown in figure 1, comprising an integrally formed body 13b of an elastic liquid impermeable material, an absorptive device 14 associated with a first portion 8 of the body 13b, and a fibrous layer 12 affixed to the inner surface of the body 13b in a second portion 9, 10, as shown in figure 3. The undergarment dressing 1 is formed by associating the absorptive device 14 with the body 13b and affixing the fibers 12, as shown in figure 3.

With respect to claims 24, 39, 42, and 55, the fibers 12 are affixed to the inner surface of the body 13b in all portions except the portion associated with the absorptive device 14, as shown in figure 4.

With respect to claims 25 and 43, the second portion 9, 10 is formed with multiple perforations 15, as shown in figure 3.

With respect to claims 26 and 44, the first portion 8 is not perforated, as shown in figure 3.

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With respect to claims 27, 40, 45, and 56, the outer surface of the body 13b comprises fibers 13a affixed thereto, as disclosed in column 2, lines 50-51.

With respect to claims 28 and 46, the liquid impermeable material is rubber, as disclosed in column 2, lines 48-49.

With respect to claims 30 and 48, the first portion 8 extends outward beyond the absorptive device 14, as shown in figure 3.

With respect to claim 33, the undergarment is underpants, as shown in figure 1.

Claims 23, 24, 28, 29, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Clarke et al. (5,149,336).

With respect to claims 23 and 34, Clarke discloses an undergarment, a brassiere, as shown in figure 5. The garment comprises an integrally formed body 18 formed of a liquid impermeable material. An absorptive device 24 is associated with the inner surface of the body 18 in a first portion, and a fibrous layer 22 is affixed to the inner surface of the body 18 in a second portion, as shown in figure 5.

With respect to claim 24, the fibers 22 are affixed to the inner surface of the body 18 in all portions except the portion associated with the absorptive device 24, as shown in figure 5.

With respect to claim 28, the liquid impermeable material is rubber, as disclosed in column 6, lines 60-62.

With respect to claim 29, the fibers are cotton, as disclosed in column 5, lines 43-45.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 37, 47, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igaue et al. (RE 35,687) as applied to claims 23, 35, 41, and 51 above, and further in view of Paul et al. (6,060,638).

Igaue discloses all aspects of the claimed invention but remains silent as to the type of fibers 12 used. It is common knowledge in the art to use cotton fibers to form the bodyside liner of an absorbent article, as disclosed by Paul in column 4, lines 12-27. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the fibers of Igaue cotton, since it was well-known in art to form a bodyside liner from cotton fibers.

Claims 31, 32, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igaue et al. (RE 35,687).

Igaue discloses all aspects of the claimed invention with the exception of the undergarment dressing being seamless. It would have been an obvious matter of design choice to make the garment seamless, since the applicant has not disclosed that the lack of seams serves any particular purpose or solves any stated problem, and it appears the garment of Igaue would function equally well as the claimed invention.

***Allowable Subject Matter***

Claims 36 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to disclose a method of forming the claimed article comprising the step of contacting the absorptive device with the liquid impermeable material before the liquid impermeable material is dry.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,698,847; 5,758,367; 5,800,245; 5,888,118; and 6,502,250 pertain to garments having liquid impermeable material with fibers affixed thereto.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA

cla

May 27, 2004



JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700